THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No. 9008 of 2006

DATED:27-04-2006

BETWEEN

Husamuddarain Trust-20-2-607, Baragalli, Hussaini Alam, Hyderabad, rep. By its Trustee Mohammad Yakoob Ziaee.

…PETITIONER

AND

TheMunicipal Corporation of Hyderabad, Town Planning Section, Hyderabad.

…RESPONDENT

THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.8203 of 2006

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the respondent in issuing notices under Sections 454 and 452 of the Hyderabad Municipal Corporation Act, 1955 (for short 'the Act') without correct measurements and threatening it to demolish the structures of the premises bearing H.Nos.10-2-9 & 10-2-249 situated at A.C. Guards, Hyderabad, as illegal, arbitrary.

The case of the petitioner-Trust is that it is the absolute owner and possessor of the above said premises along with appurtenant land admeasuring 5,924 Sq. yards and that in order to construct a residential complex, it obtained permission from the Andhra Pradesh Wakf Board and also from the State Government in 2002 and after taking necessary permissions and clearance, it started construction in accordance with the sanctioned plan. While so, the respondent issued a notice dated 06-03-2006 under Section 454 of the Act pointing out certain deviations and that it has filed an explanation on 20-03-2006. Thereafter, another Notice No.88, dated 10-04-2006 was issued to it pointing out certain deviations. It is stated that again it filed an explanation on 19-04-2006, but the same has not been considered by the respondent. Hence, the writ petition.

Admittedly, the said notices issued by the respondent are only show cause notices and in turn, the petitioner also submitted explanations. Therefore, unless the said explanations are considered and final notice is issued under Section 636 of the Act, the respondent cannot demolish or remove the alleged illegal and unauthorized structures of the petitioner-Trust.

Having regard to the facts and circumstances of the case, the respondent is directed to consider the explanations submitted by the petitioner within a week from the date of receipt of a copy of this order and issue a final notice under section 636 of the Act pointing out the clear deviations or unauthorized constructions, if any, calling upon the petitioner to remove the same, failing which, it is open for the respondent to remove the same in accordance with law.

The writ petition is accordingly disposed of. No costs.

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V. ESWARAIAH, J

Dated: 27-04-2006

sj